

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 8, 2010

PSF No.: 09HD-143
Ref. No.: GLS-5188

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

Consent to Assign General Lease No. S-5188, Patricia G. Greenwell, Trustee under that certain unrecorded Patricia G. Greenwell Revocable Living Trust dated May 5, 1983, Assignor, to Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson, Assignee, Auhaueake, North Kona, Hawaii, Tax Map Key: 3rd/ 7-5-09: 43.

APPLICANT:

Patricia G. Greenwell, Trustee under that certain unrecorded Patricia G. Greenwell Revocable Living Trust dated May 5, 1983, as Assignor, to Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson, Tenants in Common, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Auhaueake, North Kona, Hawaii, identified by Tax Map Key: 3rd/ 7-5-09: 43, as shown on the attached map labeled Exhibit A.

AREA:

.338 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Lessee shall use or allow the premises leased to be used solely for commercial purposes as may be permitted under the zoning ordinances of the County of Hawaii.

TERM OF LEASE:

50 years, commencing on May 19, 1989 and expiring on May 18, 2039. Last rental reopening occurred on May 19, 2009; next rental reopening is scheduled for May 19, 2019.

ANNUAL RENTAL:

\$ 6,900.00.

CONSIDERATION:

\$10.00.

RECOMMENDED PREMIUM:

None. (Refer to Exhibit B attached.)

DCCA VERIFICATION:

ASSIGNOR: Not applicable. Patricia G. Greenwell, as Trustee of the Patricia G. Greenwell Revocable Living Trust is not required to register with DCCA.

ASSIGNEE: Not applicable. As individuals, Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson are not required to register with DCCA.

REMARKS:

General Lease No. S-5188 was sold at public auction held on May 18, 1989. Lanihau Partners L.P. as the successful bidder was issued a 50-year lease for commercial purposes.

At its meeting of May 15, 1998, Item D-6, the Board of Land and Natural Resources approved:

1. Consent to Assignment of lease between Lanihau Partners L.P. and L. Radcliffe Greenwell, as Trustee under that certain unrecorded L. Radcliffe Greenwell Revocable Living Trust Agreement dated April 28, 1983;
2. Consent to the assignment of lease between L. Radcliffe Greenwell, as Trustee under that certain unrecorded L. Radcliffe Greenwell Revocable Living Trust Agreement dated April 28, 1983 and Patricia G. Greenwell, as Trustee under that certain unrecorded Patricia G. Greenwell Revocable Living Trust Agreement dated May 5, 1983; and
3. Consent to the sublease between Patricia G. Greenwell, as Trustee under that certain unrecorded Patricia G. Greenwell Revocable Living Trust Agreement dated May 5, 1983, Lessee/ Sublessor, to Joan Greenwell Anderson and Brian Anderson, Sublessee. The sublease term was for approximately forty-one years, commencing on December 22, 1997 and scheduled to expire on May 18, 2039.

At its meeting of April 23, 1999, Item D-3, the Land Board approved the release of the \$50,000 improvement bond to Lanihau Partners L.P.

On May 7, 2009, the sublease between Patricia G. Greenwell Trust to Brian Anderson and Joan Greenwell Anderson was cancelled.

By letter dated November 14, 2009, Patricia G. Greenwell, Trustee of the Patricia G. Greenwell Revocable Living Trust, dated May 5, 1983, Assignor, requested the assignment of General Lease No. S-5188 to Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson, Assignee. The assignment of lease application indicates that there shall be an interest split of 33 percent to both Brad and Cord Anderson, with the remaining 34 percent to D.G. Anderson.

Staff reviewed the file and can report that for the past two years, notices of default for rent were sent on 4/23/08, 12/23/08, and 7/31/09. All rental defaults were cured within 30 days of receipt of the respective notices. Liability insurance is current, with scheduled expiration on 11/18/2010. A surety bond in the form of an Irrevocable Standby Letter of Credit issued by Bank of Hawaii, in the amount of \$27,600 is on file. The Lessee has never been cited for any illegal or unlawful activity on the State property. There are no outstanding rental reopening issues.

Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The last rental reopening was conducted on May 19, 2009.

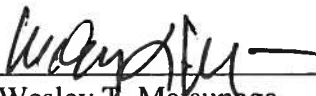
No agency or interest groups were solicited for comment, as there will be no new disposition or change in land use with this request.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5188 from Patricia G. Grenwell, Trustee under that certain unrecorded Patricia G. Greenwell Revocable Living Trust dated May 5, 1983, Assignor, to Brad Radcliffe Anderson, Cord Dominis Anderson, and D.G. Anderson, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent



APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

[illegible]

EXHIBIT A

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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November 23, 2009

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: Morris M. Atta, Division Administrator *Thielen*

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus Chen*

SUBJECT: In-House Valuation Recommendation – Assignment of Lease Calculation

Lease No.:	GL S-5188
Assignor:	Patricia G. Greenwell Trust
Assignee:	Brad Radcliffe Anderson & Cord Dominis Anderson
Location:	North Kona, Hawaii
Land Area:	0.338 acres
Tax Map Key:	(3) 7-5-09: 43
Char of Use:	Commercial
Valuation Date:	Current

We have been requested to provide an updated in-house evaluation of the assignment premium due to the State for a pending assignment of GL S-5188. The assignment consideration is \$10. The subject contains a beach volleyball court and walkways. According to HDLO staff, the cost of improvements and trade fixtures is \$0. Therefore, we conclude an assignment premium of \$0 due for GL S-5188.

[Signature]
Approved/Disapproved:

[Signature]
Laura H. Thielen, Chairperson

11/24/09
Date

cc: District Branch Files
Central Files

EXHIBIT B